

# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

April 21, 2010

## **Via Electronic Transmission**

Carol H. Steckel  
Commissioner  
Medicaid Agency  
State of Alabama  
P.O. Box 5624  
Montgomery, AL 36103

Dear Commissioner Steckel:

In the United States, the federal and state governments spend roughly \$317 billion every year on the Medicaid program. As Ranking Member of the Senate Committee on Finance, I have an obligation to ensure that taxpayer dollars are appropriately spent on federal health care programs. Like the Medicare program, Medicaid suffers from systemic weaknesses that lead to fraud, waste, and abuse across the program, resulting in higher costs and less health care to those who are in need. The overutilization of prescription drugs, whether through drug abuse or outright fraud, plays a significant role in the rising cost of our healthcare system. The purpose of this letter is to request information regarding certain outliers in Alabama's Medicaid program and what steps Alabama takes to monitor rates of utilization.

In recent inquiries, I have asked the U.S. Department of Health and Human Services about physicians prescribing mental health drugs at astonishingly high rates. In addition to these concerns, a recent CNN report detailed the increasing abuse of OxyContin, Roxicodone, and Xanax. Specifically, the report described the role some pain management clinics and physicians play in the black market for these drugs. I write today to better ascertain how high rates of both mental health and pain medication utilization are affecting the Medicaid program, as well as how Alabama's rates compare to the national rates.

To that end, please provide charts that list of the top ten Medicaid prescribers of the following drugs for the years 2008 and 2009. For each prescriber, please provide his/her prescriber identifier, and the number of prescriptions written per drug per year, and the total amount billed to Medicaid per drug, separated for each year.

- Abilify;
- Geodon;
- Seroquel;
- Zyprexa;
- Risperdal;

- OxyContin;
- Roxicodone; and
- Xanax.

I thank you in advance for your cooperation and request that you provide the requested documents and written responses by no later than May 5, 2010. In your reply, please format information into a chart like the examples provided below. All formal correspondence should be sent electronically in PDF format to [Brian\\_Downey@finance-rep.senate.gov](mailto:Brian_Downey@finance-rep.senate.gov) or via facsimile to (202) 228-2131. Of course should you wish to discuss this matter further, please do not hesitate to contact Christopher Armstrong of my Committee staff at (202) 224-4515.

Sincerely,



Charles E. Grassley  
Ranking Member

Attachment

**Drug X, 2008**

Prescriber Identifier	Total prescriptions	Total billed to Medicaid
123456789	25,000	250,000
234567891	24,000	240,000
345678912	23,000	230,000
456789123	22,000	220,000
567891234	21,000	210,000
678912345	20,000	200,000
789123456	19,000	190,000
891234567	18,000	180,000
912345678	17,000	170,000
012345678	16,000	160,000

**Drug X, 2009**

Prescriber Identifier	Total prescriptions	Total billed to Medicaid
123456789	25,000	250,000
234567891	24,000	240,000
345678912	23,000	230,000
456789123	22,000	220,000
567891234	21,000	210,000
678912345	20,000	200,000
789123456	19,000	190,000
891234567	18,000	180,000
912345678	17,000	170,000
012345678	16,000	160,000



BOB RILEY  
Governor

# Alabama Medicaid Agency

501 Dexter Avenue  
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334-242-5000 1-800-362-1504



CAROL H. STECKEL, MPH  
Commissioner

May 5, 2010

Via Electronic Transmission

The Honorable Charles E. Grassley  
Ranking Member  
United States Senate  
Committee on Finance  
Washington, DC 20510-6200

Dear Senator Grassley:

Thank you and your staff for working with the State Medicaid Agency representatives regarding questions about your April 21, 2010 request for the top ten prescribers for a list of specified drugs. As one of the largest payers of health care services in Alabama, I am very sensitive to our need to protect the program from fraud, waste, and abuse. We have a proud record of work in program integrity and look forward to working with you and your staff to continue to strengthen our efforts.

With that being said, Alabama will not be able to provide the data in the requested format. The release and dissemination of information identifying physicians in this regard increases the potential of abuse or misinterpretation of such information and, more importantly, could result in serious and unfounded allegations being made against physicians for whom there is no reasonable or credible reason to believe the physician may have violated any law or regulation.

The raw data, when used independently, have significant limitations and could lead to severe consequences for those physicians unfairly categorized. The request fails to contain appropriate safeguards to ensure that neither false nor misleading conclusions are derived that could undermine the delivery of appropriate and quality care. When left unaddressed, these limitations and accompanying potential misinterpretations of such data are significant. The issues may include, but are not limited to, failure to consider factors that impact care such as specialty, geographic location, population demographics,

patient compliance, accessibility of health care providers as well as the potential for errors in the reporting of the data.

In addition, the potential for physician profiling, drawing just upon the requested data is more than likely not representative of a physician's entire patient population. It also fails to take into account such factors as evidenced-based quality of care measures by physicians in various specialties. Currently, Alabama faces enough challenges in maintaining physician enrollment without having to face potential fraudulent allegations against the prescribing community. Again, please be assured that where fraud, waste and abuse is found and proven we do take action against the provider.

Alabama has several safeguards in existence to address fraud and abuse, particularly in the specific area addressed in your data request. The Alabama Department of Public Health operates and maintains a Prescription Drug Monitoring Program (PDMP), in which all controlled substances dispensed within the state of Alabama are reported to the database. The Alabama Board of Medical Examiners, the licensing and disciplinary agency for physicians, has access to the database as part of its regulatory responsibilities and duties pertaining to its oversight of physicians in Alabama. In addition, state, local, and federal law enforcement authorities can access the information in the database.

The Alabama Medicaid Agency has many systems in place to thwart abuse and fraud (as well as simple billing errors resulting in inaccurate payments). The following edits are in place that place "hard stops" on pharmacy point-of-sale prescription claims and necessitates medical justification for the payment of that claim:

- maximum units
- prior authorization
- therapeutic duplication
- early refill

Alabama Medicaid also maintains several retrospective reviews of pharmacy utilization:

- federally-mandated Drug Utilization Review (DUR), in which educational letters are sent to prescribers who hit specified evidence-based criteria
- internal Agency pharmacy audit reviews
- CMS-based retrospective reviews
- A program integrity contractor to conduct additional audits of outlier pharmacy claims.



The Honorable Charles E. Grassley

May 5, 2010

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Specifically regarding antipsychotic utilization, the Agency has developed a Positive Antipsychotic Management (PAM) program in which educational letters are sent to prescribers for children and adolescents who fall outside evidence-based guidelines. In some cases, educational calls are made from a child psychiatrist specialist to the prescriber so that an educated discussion may take place on the appropriate use of antipsychotic medications.

Alabama wants to work with you to obtain the needed information in a format that accomplishes your goals without infringing on the rights of the physicians or having it appear that they are guilty or without giving them an opportunity to respond. It is imperative that we collaborate toward the same goal: to end fraud and abuse that not only mispends taxpayer dollars but also can cause additional health care emergencies.

Please do not hesitate to contact me directly at (334) 242-5600, or our Director of Pharmacy, Kelli Littlejohn, Pharm.D., at [kelli.littlejohn@medicaid.alabama.gov](mailto:kelli.littlejohn@medicaid.alabama.gov) if you should have additional questions. Thank you again for the work you do not only for the taxpayers of our state, but the recipients that our Agency serves.

Sincerely,

*Carol*

Carol H. Steckel, MPH  
Commissioner

CHS/kdl



BOB RILEY  
Governor

# Alabama Medicaid Agency

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ROBERT D. CHURCH, JR., CPA  
Commissioner

December 10, 2010

Via Electronic Transmission

The Honorable Charles E. Grassley  
Ranking Member  
United States Senate  
Committee on Finance  
Washington, DC 20510-6200

Dear Senator Grassley:

First, I want to thank you for your interest in improving the quality of care provided to Medicaid recipients in Alabama and throughout the United States. We share your commitment to ensuring the quality and integrity of services funded through our Agency.

As outlined in our response to your April 21, 2010, letter sent May 5, 2010, we have concerns regarding the use of the information. Because of these concerns, we are providing not only data on the top ten prescribers for FY 2008 and FY 2009 for the drugs you specified (with provider information redacted), but also information that we believe will help put this information into context.

This data includes pertinent comparable data, such as *total* overall utilization so that a valid comparison can be made of the "top ten" prescribers. For example, this will allow the reader to better understand a "top utilizer" in context with the overall utilization, and may help identify issues affecting normalization such as outliers, influential observation, and residual data points. Raw data may also not allow the user to take into account such factors as evidenced-based quality of care measures by physicians in various specialties. Alabama Medicaid firmly believes that until a full snapshot of the available information is available, an extrapolated outcome may not best describe the Alabama-specific situation.

While the Agency concurs there may be potential inappropriate utilization in some of the drug classes of which data you requested, our Agency has been restricted in the measures it is allowed to take to appropriately manage these drug classes.



Specifically:

- Alabama implemented its mandatory Preferred Drug List (PDL) in 2003; however, the PDL statutory language approved by the state legislature specifically excludes antipsychotics (of which your requested drug list includes several) from being included in the PDL. This exclusion continues today.
- When Alabama Medicaid implemented a monthly brand limit for adult recipients in 2004, the Agency was again guided to exclude antipsychotics, allowing up to over double the amount of brands per month for those drugs.
- In recent years, the Alabama legislature has included General Fund budget line-items specifically prohibiting Alabama Medicaid to "prior authorize" or clinically manage the antipsychotic drug class. Such roadblocks tie the clinical hands of the Agency staff to help support appropriate utilization that has been so successful in other drug classes with no similar barriers.

When allowed, the Agency has implemented various administrative controls to thwart inappropriate utilization in the antipsychotic drug classes, including therapeutic duplication and maximum unit edits, using approved FDA labeling as guidelines. In 2003, the Agency began working with a third party retrospective review company to identify potentially inappropriate prescribing patterns for adults and children in various behavioral health drug classes and to provide education to identified physicians. In 2008, a clinical review by the Agency's Pharmacy & Therapeutics (P&T) committee resulted in a Positive Antipsychotic Management (PAM) workgroup being created, and these educational efforts (including letters and peer-to-peer educational calls) were focused on antipsychotic utilization in very young children. After a year of the focused PAM program, educational efforts showed very minimal results without the ability to require prior authorization.

Outside of the antipsychotic issues outlined above, Alabama has several safeguards in existence to address fraud and abuse, particularly in the specific area addressed in your data request. The Alabama Department of Public Health operates and maintains a Prescription Drug Monitoring Program (PDMP), in which all controlled substances dispensed within the state of Alabama are reported to the database. The Alabama Board of Medical Examiners, the licensing and disciplinary agency for physicians, has access to the database as part of its regulatory responsibilities and duties pertaining to its oversight of physicians in Alabama. State, local, and federal law enforcement authorities can also access the information in the database.



Additional efforts by the Alabama Medicaid Agency include various Drug Utilization Reviews, recipient lock-in program, early refill overrides, pharmacy audit/program integrity reviews, prior authorization, manual reviews on every pharmacy claim over \$2000, maximum unit and therapeutic duplication overrides, Preferred Drug List, Prior Authorization program. Our Agency endeavors to be a good steward of taxpayer funds and actively pursues providers when fraud, waste and abuse are identified.

Again, the Alabama Medicaid Agency commends your efforts to improve the quality of care provided to Medicaid recipients, and looks forward to working with you and your staff to continue to strengthen our efforts. It is imperative that we collaborate toward the same goal: to end fraud and abuse that not only misspends taxpayer dollars but also can cause additional health care emergencies.

Please let me know if I can respond to any questions you may have. You may contact me directly at (334) 242-5600, or our Director of Pharmacy, Kelli Littlejohn, Pharm.D., at [kelli.littlejohn@medicaid.alabama.gov](mailto:kelli.littlejohn@medicaid.alabama.gov) if we can provide additional information.

Thank you again for the work you do not only for the taxpayers of our state, but the recipients that our Agency serves.

Sincerely,

A handwritten signature in blue ink, appearing to read "RDC", with a stylized flourish extending to the right.

Robert D. Church, Jr., CPA  
Commissioner

RDC/kdl

Grassley office requested brand drugs only

Abilify 2008		Abilify 2009		Geodon 2008		Geodon 2009		Oxycontin 2008		Oxycontin 2009		Risperdal 2008		Risperdal 2009		Roxicodone 2008		Roxicodone 2009		Seroquel 2008		Seroquel 2009		Zyprexa 2008		Zyprexa 2009	
Prescribing Provider	Count Of Claims	Prescribing Provider	Count Of Claims	Prescribing Provider	Count Of Claims	Prescribing Provider	Count Of Claims	Prescribing Provider	Count Of Claims	Prescribing Provider	Count Of Claims	Prescribing Provider	Count Of Claims	Prescribing Provider	Count Of Claims	Prescribing Provider	Count Of Claims	Prescribing Provider	Count Of Claims	Prescribing Provider	Count Of Claims	Prescribing Provider	Count Of Claims	Prescribing Provider	Count Of Claims	Prescribing Provider	Count Of Claims
A	1174	A	1124	A	616	A	707	A	482	A	464	A	1339	A	757	A	15	A	11	A	1368	A	1166	A	860	A	1044
B	721	B	1102	B	463	B	590	B	122	B	191	B	1063	B	685	B	2	B	2	B	1128	B	1082	B	798	B	694
C	713	C	947	C	416	C	498	C	90	C	153	C	899	C	557	C	1	C	2	C	1080	C	1060	C	544	C	601
D	663	D	835	D	394	D	453	D	90	D	91	D	883	D	398	D		D	2	D	1039	D	1047	D	534	D	494
E	661	E	818	E	381	E	391	E	88	E	89	E	815	E	371	E		E	1	E	891	E	935	E	473	E	378
F	657	F	728	F	375	F	353	F	85	F	86	F	792	F	358	F		F	2	F	819	F	890	F	431	F	368
G	635	G	694	G	374	G	346	G	75	G	82	G	770	G	295	G		G	2	G	716	G	847	G	308	G	362
H	614	H	682	H	350	H	337	H	70	H	75	H	687	H	279	H		H	2	H	705	H	812	H	297	H	343
I	571	I	613	I	325	I	336	I	68	I	75	I	607	I	258	I		I		I	682	I	672	I	282	I	337
J	567	J	604	J	304	J	327	J	55	J	71	J	606	J	242	J		J		J	654	J	652	J	277	J	315
TOTAL from above		6,976	8,147	4,002	4,338	1,229	1,381	8,461	4,200	16	21	9,082	9,164	4,799	4,937												

Additional information:																											
Total All Claims for that brand drug (not just top 10 prescriber) See "Overall Total" tab	33,711		40,947		16,657		17,631		4,869		5,371		43,750		11,642		16		21		55,773		58,127		20,694		20,851
Of the overall total, the top 10 prescribers are this %	21%		20%		24%		25%		25%		26%		19%		36%		100%		100%		16%		16%		23%		24%
Dr A is this % of the overall total	3%		3%		4%		4%		10%		9%		3%		7%		81%		52%		2%		2%		4%		5%


Grassley office requested brand drugs only

Abilify 2008		Abilify 2009		Geodon 2008		Geodon 2009		Oxycontin 2008		Oxycontin 2009		Risperdal 2008		Risperdal 2009		Roxicodone 2008		Roxicodone 2009		Seroquel 2008		Seroquel 2009		Zyprexa 2008		Zyprexa 2009	
Prescribing Provider	Sum of Paid Amount	Prescribing Provider	Sum of Paid Amount	Prescribing Provider	Sum of Paid Amount	Prescribing Provider	Sum of Paid Amount	Prescribing Provider	Sum of Paid Amount	Prescribing Provider	Sum of Paid Amount	Prescribing Provider	Sum of Paid Amount	Prescribing Provider	Sum of Paid Amount	Prescribing Provider	Sum of Paid Amount	Prescribing Provider	Sum of Paid Amount	Prescribing Provider	Sum of Paid Amount	Prescribing Provider	Sum of Paid Amount	Prescribing Provider	Sum of Paid Amount	Prescribing Provider	Sum of Paid Amount
A	\$376,969.96	A	\$479,249.85	A	\$230,252.98	A	\$262,898.90	A	\$187,992.96	A	\$197,359.45	A	\$712,882.14	A	\$559,571.00	A	\$3,030.09	A	\$3,169.80	A	\$308,381.45	A	\$310,442.16	A	\$557,071.85	A	\$740,161.16
B	\$259,826.92	B	\$411,301.43	B	\$131,792.46	B	\$189,206.44	B	\$54,694.66	B	\$98,655.19	B	\$173,018.15	B	\$492,790.08	B	\$146.58	B	\$414.72	B	\$298,421.97	B	\$305,094.02	B	\$455,863.14	B	\$454,378.03
C	\$314,807.42	C	\$403,403.20	C	\$130,476.42	C	\$192,760.81	C	\$25,908.26	C	\$44,859.44	C	\$228,544.23	C	\$390,725.42	C	\$167.32	C	\$727.34	C	\$282,224.40	C	\$309,620.42	C	\$222,638.45	C	\$358,307.08
D	\$283,326.66	D	\$322,871.23	D	\$108,292.27	D	\$143,335.48	D	\$20,400.75	D	\$23,833.55	D	\$504,148.73	D	\$315,934.86	D		D	\$297.00	D	\$327,328.00	D	\$327,552.89	D	\$269,470.41	D	\$325,652.29
E	\$227,621.86	E	\$387,292.65	E	\$116,812.39	E	\$106,844.35	E	\$30,575.44	E	\$22,399.64	E	\$362,634.68	E	\$187,719.95	E		E	\$8.39	E	\$218,248.10	E	\$133,726.80	E	\$300,949.36	E	\$148,494.97
F	\$265,104.73	F	\$296,638.15	F	\$108,870.30	F	\$113,988.55	F	\$44,450.23	F	\$40,856.60	F	\$436,739.33	F	\$282,423.71	F		F	\$5.34	F	\$100,905.56	F	\$339,370.68	F	\$229,042.93	F	\$221,970.75
G	\$217,356.87	G	\$253,241.89	G	\$70,392.94	G	\$141,867.57	G	\$19,358.62	G	\$38,010.25	G	\$386,232.82	G	\$244,056.48	G		G	\$0.00	G	\$167,003.13	G	\$255,791.15	G	\$145,458.15	G	\$235,090.44
H	\$313,033.62	H	\$257,240.19	H	\$110,565.25	H	\$121,074.52	H	\$14,507.54	H	\$21,180.44	H	\$181,495.06	H	\$211,964.93	H		H	\$291.42	H	\$165,437.37	H	\$231,488.14	H	\$160,944.20	H	\$199,987.15
I	\$262,252.82	I	\$233,567.10	I	\$83,384.87	I	\$116,224.90	I	\$16,630.58	I	\$32,880.61	I	\$102,050.84	I	\$178,508.36	I		I		I	\$184,883.39	I	\$180,200.44	I	\$170,391.73	I	\$182,083.96
J	\$197,348.65	J	\$341,777.40	J	\$73,386.10	J	\$130,449.51	J	\$15,880.73	J	\$15,302.83	J	\$97,955.72	J	\$137,005.64	J		J		J	\$188,032.13	J	\$196,724.47	J	\$117,284.73	J	\$169,233.52
																							K	\$150,262.52			

Overall Utilization (all claims not just top 10 prescribers)

Drug	Dispensed Year	Type	Claims	Paid Amount
Abilify	2008	Brand	33,711	\$ 12,978,049.62
Abilify	2009	Brand	40,947	\$ 16,782,161.66
Alprazolam	2008	Generic	116,236	\$ 1,019,227.67
Alprazolam	2009	Generic	131,409	\$ 1,114,279.48
The request was for brand Xanax; Alabama does not cover brand (optional drug class)				
Geodon	2008	Brand	16,657	\$ 4,981,305.51
Geodon	2009	Brand	17,631	\$ 5,861,384.85
Oxycontin	2008	Brand	4,869	\$ 1,613,001.66
Oxycodone	2008	Generic	1,303	\$ 339,554.29
The request was for brand Oxycontin; oxycodone is the available generic.				
Oxycontin	2009	Brand	5,371	\$ 1,901,094.12
Oxycodone	2009	Generic	1,026	\$ 384,922.61
The request was for brand Oxycontin; oxycodone is the available generic.				
Risperdal	2008	Brand	43,750	\$ 13,527,638.96
Risperidone	2008	Generic	24,301	\$ 4,565,865.40
The request was for brand Risperdal; risperidone is the available generic.				
Risperdal	2009	Brand	11,642	\$ 6,755,603.94
Risperidone	2009	Generic	59,172	\$ 5,532,973.86
The request was for brand Risperdal; risperidone is the available generic.				
Roxicodone	2008	Brand	16	\$ 3,343.99
Oxycodone	2008	Generic	1,359	\$ 77,973.22
The request was for brand Roxicodone; oxycodone is the available generic.				
Roxicodone	2009	Brand	21	\$ 4,914.01
Oxycodone	2009	Generic	1,927	\$ 123,768.66
The request was for brand Roxicodone; oxycodone is the available generic.				
Seroquel	2008	Brand	55,773	\$ 13,113,573.72
Seroquel	2009	Brand	58,127	\$ 15,022,858.82
Zyprexa	2008	Brand	20,694	\$ 9,589,290.63
Zyprexa	2009	Brand	20,851	\$ 10,762,216.67